IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE FOURTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
HON'BLE SRI JUSTICE C.V.RAMULU

WRIT APPEAL No.1144 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 27/02/2004 in WP No. 2363 of 2004 on the file of the High Court.)

Between:

Fishermen Cooperative Society Ltd.,

(Regn. No.NN1) Gudlavalleuru,

Krishna Distrct, rep. by
President, D. Ramudu,

S/o Late Mr. Kutumbam

R/o Gudlavalleru Village and Mandal
Krishna District, A.P. 521356

..... APPELLANT

AND

1 The District Collector,

Krishna District, Chilakalapudi

Machilipatnam, A.P.

2 District Panchayat Officer,

Chilakalapudi,

Machilipatnam-521301,

Krishna District

3 Divisional Panchayat Officer,

Gudivada-521356,

Krishna District

4 Secretary, Gudlavalleru Gram Panchayat,

Gudlavalleru 521356,

Krishna District

5 Kode Srinivasa Rao

S/o Kodandaramaiah

Gudlavalleru, Krishna District

.....RESPONDENTS

Counsel for the Appellant :Mr. V.PARABRAHMA SASTRI

Counsel for the Respondents 1 to 3: GP FOR PANCHAYAT RAJ & RURAL DEVELOPMENT

Counsel for the respondent No.4 : Mr. Dantu Srinivas, standing counsel for Gram Panchayat

Counsel for the respondent No.5 : Mr. S.Laxma Reddy

The Court made the following :

JUDGMENT: (Per Hon'ble the Chief Justice)

Writ Petition of the appellant Cooperative Society seeking to question the legality and validity of the notification dated 06-02-2004 has been dismissed by the learned single Judge. Challenge by the appellant is to the said order of dismissal of the writ petition. The appellant claimed in the writ petition that as per G.O.Ms.No.343 dated 10-04-1978 and G.O.Ms.No.776 dated 31-12-1990, the appellant has preferential right to get lease of fishery rights in the tanks and there is violation on the part of respondents in issuing notification proposing to auction the lease of fishery rights in Gudlavalleru village tank. The case of respondents was that there are eleven tanks under the jurisdiction of fourth respondent Gram Panchayat out of which nine tanks were leased out to the petitioner appellant from 2003-04 to 2005-06, one tank was leased out to Rajaka community and the tank in question is the only source of drinking water for entire village of Gudlavalleru and since the water in the said tank is polluted and its colour is changed, on the suggestion of Medical Officer, Primary Health Centre to bail out the entire water and re-fill the same with fresh water, notification was issued to conduct open auction to catch fish in the tank after depleting the existing water and for the said leasing out, the petitioner had no preferential right. Learned single Judge dismissed the writ petition not agreeing with the submission of the petitioner appellant that it had got a preferential right.

Insofar as the period of lease is concerned, it has come to an end as of today and no useful purpose will be served by even admitting the appeal. Learned counsel for the appellant submits that findings recorded by the learned single Judge are likely to come in the way in case in future also the respondents will resort to such auction.

We dismiss the present appeal with the observation that the findings recorded by the

learned single Judge will not come in the way of the appellant in case in future the necessity will arise for the appellant to claim preferential right and it would be open to the appellant to question the action of respondents on all available grounds including the grounds taken in the present appeal.

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DEVINDER GUPTA, C.J.

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C.V.RAMULU, J

04-08-2004

bsc

To

1 The District Collector,

Krishna District, Chilakalapudi

Machilipatnam, A.P.

2 District Panchayat Officer,

Chilakalapudi,

Machilipatnam-521301,

Krishna District

3 Divisional Panchayat Officer,

Gudivada-521356,

Krishna District

4. 2 CCs to Govt. Pleader for Panchayat Raj & Rural

Development, High Court Buildings, Hyderabad. (OUT)

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